SUBMISSION
OF
THE PROVINCE OF BRITISH COLUMBIA
TO THE STANDING COMMITTEE ON TRANSPORT
REGARDING
BILL C-155, AN ACT TO FACILITATE
THE TRANSPORTATION, SHIPPING AND
HANDLING OF WESTERN GRAIN

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VANCOUVER

AUGUST 12, 1983

Government and people of British Columbia welcome the Standing Committee on Transport to our province and commend the Committee for adding Vancouver to its itinerary.

Your coming here for this hearing indicates to us that you recognize that the western grain transportation system is not just a prairie system. You recognize that grain transportation is important to British Columbia and that Bill C-155 has important implications for this province and for all its industry.

You will hear from industry in British Columbia - from the Council of Forest Industries, the Mining Association, and the Employers' Council. You will hear from the transportation industry - the Vancouver Port Corporation, British Columbia Railway, and the shipping companies; and you will also hear from other concerned citizens - the Mayors of several of our cities, the Road Builders, the Vancouver Board of Trade, and others.

These submissions will give you a good view of the feelings of the people of this province about this Bill. You will see a recognition of the need to act now, to pass this bill so that we can get on with meeting the challenges of competing in world markets.

Over the past several years, the Province of British Columbia has maintained a consistent position on the matter of the statutory freight rate for export grain. This position has been stated many times in various places. Put simply, it states that the railways should receive a compensatory rate for the movement of export grain and, if subsidy is required, it should be paid directly to the farmer.

This position of British Columbia has remained consistent while the issues of grain transportation have been studied and discussed in Canada. The past decade has been characterized by continuing study. The Snavely Commission (The Commission on the Costs of Transporting Grain by Rail) used cost data from calendar year 1974 in proving to us that the railways did, indeed, lose money on carrying grain to export. Since that time we have had the Hall Commission, the Booz Allen Report, the Prairie Rail Action Committee, as well as reports, briefs, position papers and statements by farm groups, provincial governments and many others.

We no longer have the luxury of time for study; action must begin now.

Since February 1982, there has been some optimism that action is forthcoming. At that time, the Honourable Jean Luc Pepin committed the Government of Canada to a comprehensive approach to the solution of the western Canadian railway transportation problems. This comprehensive approach included a revision of the Crow rate, a commitment to continued payment of the Crow benefit, firm performance and investment guarantees from the railways and a process through which the affected parties could participate in the development of the details of the solution.

This consultation process, in which Dr. Clay Gilson was the federal representative, differed from preceding studies. The Gilson process began with the commitment to action and allowed the producers to take part in the development of the action plan. The Bill which you now study is the result of this consultative process.

Throughout the Gilson process the grain farmers were staunchly represented. Since the presentation of the Gilson Report, the wheat pools have continued to assert themselves in the committees dealing with this legislation, with method of payment, and others. So the legislation you are studying has had considerable input from the grain farmer.

The Bill may not satisfy all of the farmers on the prairies. No action which will change the way things are will ever satisfy everyone. Therefore, the grain farmers' interests have been protected.

The Bill is different from the Gilson recommendation regarding method of payment. This, we all recognize, is because the wheat pools would not accept payment to the producer - even in a shared way. The latest amendments introduced by Mr. Pepin which provide a "safety net" for the grain producer by limiting the shipper share of the transportation costs to a maximum of ten per cent of the selling price of the grain is another example of protection of the grain producers' interests. This was added to the Bill because of farm pressure to recognize the "ability to pay".

We, in British Columbia, are glad that your committee is holding these public hearings so that the other shippers in the western transportation system may comment to you. British Columbia feels that the grain farmer (as represented by his organizations in this process), the railways, and the federal government have negotiated a compromise which is reflected in this Bill. As in all compromises, everyone has had to give something up and so is a little disappointed. But as in all compromises everyone gets some of what he wants:

- The grain farmer gets the commitment to maintain a first class railway system to move his product to market. Although he will have to pay more for this transportation, his maximum rate is limited, there will be a period of adjustment and the increased rate will be shared with the taxpayer of Canada.

- The grain companies get the entire taxpayers' contribution paid to the railways; they each get membership on the Senior Grain Transportation Committee which provides full participation in car allocation, consultation by the Canadian Transport Commission on the determination of costs with access to some railway confidential information, as well as an opportunity to approve the railways' investment plans.

- Both the producers and the companies get continued commitment to the Prairie Branch Line Rehabilitation Program as well as use of hopper cars purchased by the Canadian taxpayers.

- The national railways get compensation for their costs in moving export grain. They get the assurance that their costs will be reviewed by the Commission every four years to ensure that the total revenue will continue to cover their costs.

- The taxpayer of Canada gets the assurance that his contribution to the export grain business will not grow without limit. He gets the commitment from the railways that they will invest in increased capacity to ensure that grain as well as all other products can be delivered reliably to export positions.

- Everyone concerned with this Bill gets the commitment that the Minister will carry out a comprehensive review of the operation of the Act during the 1985-86 crop year. Since British Columbia disagrees with the direction taken in several areas, discussed later, of this legislation the Province takes some comfort from this promise of review.

Everyone of us can find something missing in the Bill, but if we focus on the positive aspects we must conclude that they are sufficiently attractive that the Bill should pass now. This Bill is the first step in the renewed development of the western transportation system and that renewed development must begin now.

At the First Ministers' Conference in Ottawa in Feburary 1982, Premier Bennett called on the Government of Canada to take action on the Crow rate to allow Canada's railways to be financially capable of investing in capacity which would be

needed soon. We were concerned in those days of the possibility of "rationing" railway capacity.

The need for this new capacity was shown by estimates of the westbound shipments of grain, coal, potash and sulfur made by the shippers of these products. These estimates were gathered by the Western Transportation Advisory Council (WESTAC) and published in its October, 1981 briefing. The total anticipated demand in 1990 was expected to be 88 million tonnes. Compared to 33 million carried in 1980 and 34.5 million carried in 1982.

WESTAC has recently sent to its members a July, 1983 forecast for these same four westbound commodities. The demand in 1990 is anticipated to total 76 million tonnes. The growth is merely delayed two years.

These figures show a continued confidence in our ability to sell our products in world markets. They say that our resource industries, including the grain industry, still believe that Canada can retain a market share and that the sales can grow. This confidence must be supported and that support must include the continued ability of the transportation system to deliver the product to export position in time to meet sales.

There is not a great deal of excess capacity in the railway system. CN Rail is spending $105 million this year on upgrading its single track line from Prince George to Prince Rupert to meet the traffic demands of the northeast coal of British Columbia. That is just one year of a ten year $600 million investment in that north line to allow the Port of Prince Rupert to reach the tonnages of which it will soon be capable.

CN Rail has estimated it will spend $100 million next year on its line between Edmonton and Vancouver. They are spending $160 million this year. These sorts of dollars cannot be expected to continue, however, if the railways' revenues are not sufficient.

In February 1983 when Mr. Pepin made his announcements of introduction of this Bill into the House along with other initiatives, we all noticed that CP Rail began its response about the Rogers Pass Tunnel with two conditions. If the Bill be passed and if the economic conditions are positive, CP Rail would call tenders on this huge project in the fall of this year.

British Columbia finds it significant that Mr. Stinson of CP Rail told your Committee in Ottawa that the company is sufficiently confident of improved economic conditions that it is prepared to go ahead as soon as this Bill is passed.

This confidence must be supported.

The national railways will invest 16.5 billion dollars in providing capacity to meet the demands of our export products. Some 5.5 billion dollars of that will be invested within British Columbia in the construction of the additional railroad track, tunnels, yards and facilities. Those dollars will create construction jobs for the duration of the projects in British Columbia but this province is more concerned with the permanent jobs in the industries served by these railways. The grain farmers, loggers, miners, truck drivers, railroad running trades and all the others that they support are the ones whose futures we want to maintain by ensuring that the products they produce and carry make it in world markets.

British Columbia concludes that Bill C-155 contains promise of sufficient positive action, adequate safeguards for all participants in the grain business, and provides for the continued development of the superb western Canadian railway system; that the Bill should be passed now.

THE DOMINION COAL BLOCKS

Clause 62 of Bill C-155 states that:

- "Notwithstanding the Crow's Nest Pass Act and any agreement made pursuant thereto, the Government of Canada may hold, dispose of or otherwise deal with the lands it selected under paragraph 1(i) of that Act in any manner and on any conditions it thinks fit."

This provision overrides a legislative impediment to the exploitation of these coal-bearing lands. The Government of Canada maintains that these lands were conveyed to it under paragraph 1(i) of the Crow's Nest Pass Act. That paragraph states:

- "That if the Company or any other company with whom it shall have any arrangement on the subject shall, by constructing the said railway or any part of it as stipulated for in the said agreement, become entitled to and shall get any lands as a subsidy from the Government of British Columbia which in the opinion of the Director of the Geological Survey of Canada (expressed in writing) are coal-bearing lands, then the Company will cause to be conveyed to the Crown, in the interest of Canada, a portion thereof to the extent of fifty thousand acres, the same to be of equal value per acre as coal lands with the residue of such lands. The said fifty thousand acres to be selected by the Government in such fair and equitable manner as may be determined by the Governor in Council, and to be thereafter held or disposed of or otherwise dealt with by the Government as it may think fit on such conditions, if any, as may be prescribed by the Governor in Council, for the purpose of securing a sufficient and suitable supply of coal to the public at reasonable prices, not exceeding two dollars per ton of two thousand pounds free on board cars at the mines.
  And on the part of the Government, to pay the said subsidy by instalments as aforesaid."

The subject coal lands here have been known as the Dominion Coal Blocks. The northern Coal Block is adjacent to the Westar (B.C. Coal Limited) Coal operation, which comprises 5,000 acres and contains perhaps 20 million tons of metallurgical and thermal

coal resources. The southern Block in the Flathead Valley, comprises 45,000 acres and contains an estimated 1.2 billion tons of metallurgical and thermal coal resources.

The Province of British Columbia passed an Act in Aid of Certain Railways in 1890 which provided for the granting of certain lands to the Kootenay Lake Railway Company (later the British Columbia Southern Railway Company) for the construction of a railroad through the Rocky Mountains. The province has maintained that it was its intention that any such land grants would reserve for the Crown Provincial all minerals, precious and base as well as coal.

The federal government's 1897 Act to Authorize a Subsidy for a Railway Through the Crow's Nest Pass included the provision, earlier noted, which required the railway company building the line to transfer to Canada 50,000 acres of any coal lands it received from British Columbia. As indicated, British Columbia has maintained that the Canadian Pacific Railway Company could not transfer the coal lands to Canada as the coal resources were never conveyed in the first place.

Despite their abundant coal resources and proximity to infrastructure, these coal lands have not been thoroughly explored, and no development has taken place on them. There have been

numerous exchanges between federal and provincial Ministers on this issue over the years.

On May 20, 1983, ten days after the first reading of Bill C-155, the British Columbia Minister of Energy, Mines and Petroleum Resources sent the following message to the federal Minister of Transport:

> "Your proposals to amend the grain rates established by the Crow's Nest Pass Act have received support from this province. We continue to hope for an early resolution of this issue, although we have concerns with recent changes you have made to the subsidy arrangements. We believe it desirable to pay the subsidy to the farmers and not to the railways directly. We are troubled, moreover, by the language employed in Section 62 of Bill C-155. The Province of British Columbia has always maintained an ownership claim on the subject coal lands. Moreover, it has regulatory requirements and land use priorities which must be met by all explorers and developers of coal. Accordingly, we trust that the federal government would never attempt to dispose of these coal lands unilaterally.
>
> I believe it is possible for our governments to take a cooperative approach to resolving these outstanding issues in order to facilitate the orderly development of the coal resources for the benefit of British Columbia, and all of Canada.
>
> I suggest that we meet at an early date prior to any disposition of the lands to hold discussions on ownership, management and regulatory policy."

The federal government, through the Minister of Energy, Mines and Resources, made only a limited response on June 22, 1983 to the British Columbia initiative. He acknowledged that the wishes of the province should be taken into account in a development strategy, but at the same time strongly re-affirmed that Canada believes the coal lands legally are a federal responsibility.

No doubt, lawyers could argue the merits of each side of the case in court for many years, which would be of benefit to no one. British Columbia's point is that both sides should set aside their legal arguments and negotiate an agreement which would facilitate the beneficial development of this coal resource for British Columbia and all of Canada. It is simply not good enough for the federal government to offer to take into account the "wishes" of British Columbia; the province's responsibilities for resource and environmental management, and mines regulation, are much more than wishes. They are mandated responsibilities.

British Columbia again calls on the Government of Canada to enter into discussions which will ultimately lead to a plan for the management and development of these coal lands. Issues to be dealt with would include leasing policy, taxation arrangements, environmental impact management, project proposal review, mines regulation and infrastructure planning and financing.

THE BRITISH COLUMBIA RAILWAY

The Board of Directors and Management of the British Columbia Railway will present their brief to you later in this public hearing. In it they will outline their views of the role that could be played by BCR in the transport of export grain; particularly for the Peace River Blocks of Alberta and Northeastern British Columbia.

As shareholder, the Province of British Columbia is disappointed that Bill C-155 seems to have been written to exclude the British Columbia Railway specifically. We question the necessity for the clause "that is subject to the jurisdiction of the Parliament of Canada" in the definition of "railway companies" in Section 2(1) of this Bill. Removal of that clause would still have the term "railway companies" include both CN Rail and CP Rail but would allow other companies to be included by regulation and under conditions prescribed within the regulation. Negotiation between Canada and the railway companies could then begin on the nature of participation by BCR in the transportation of export grain. This amendment is commended to you as it would allow the Crow benefits to reach the permit holders who ship through points on the BCR.

British Columbia is prepared to assist the Government of Canada in developing the appropriate method through which our railway can be most effectively used in increasing the flow of grain to export.

CONCLUSION

The Province of British Columbia looks forward to the report of this Committee and to the enactment, promulgation and action promised by Bill C-155 Western Grain Transportation Act.